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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------|
| 09/778,455 | 02/07/2001 | Koenraad Reybrouck | 1316N001654 | 3409 |
| 7590 10/19/2004 Harness, Dickey & Pierce, P.L.C. P.O. Box 828 Bloomfield Hills, MI 48303 | | | EXAMINER SY, MARIANO ONG | |
| | | | ART UNIT 3683 | PAPER NUMBER |

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,455

Applicant(s)

REYBROUCK ET AL.

Examiner

Mariano Sy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-8 and 28-30 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7 and 28-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 23, 2004 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 6, 7, and 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said entire sealed working chamber" in line 6.

There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "said working chamber" in line 19. It is unclear if applicant is referring to --said lower working chamber--.

Claim 1 recites the limitation "said working chamber" in line 21. It is unclear if applicant is referring to --said lower working chamber--.

Claim 1 recites the limitation "said entire fluid chamber" in line 21. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "said second fluid flow path" in line 26. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reichert (U.S. Patent Number 4,582,304) in view of Ayyildiz et al. (U. S. Patent Number 6,109,400).

Re-claim 1 Reichert disclosed, as shown in fig. 1, a damper comprising: a pressure tube 1; a rod guide assembly 4 closing a first end of said pressure tube; an

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end cap closing a second end of said pressure tube, a sealed working chamber 6,7,10 being filled with a pressurized gas; a solid piston rod 2 having a first end extending through said rod guide assembly; a piston 3 being attached to a second end of said piston rod, said piston divides said sealed working chamber into an upper 6 and a lower 7 working chamber filled with said pressurized gas; a first flow path 3a extending through said piston to accommodate flow of said pressurized gas between said upper and said lower working chambers; a valve body 8 disposed within said lower working chamber to define with said end cap a fluid chamber 10, filled with said pressurized gas, located in a second portion of said lower working chamber, said valve body being independent from said piston rod; a second flow path 11 extending through said valve body to accommodate flow of said pressurized gas between said lower working chamber and said fluid chamber.

However Reichert failed to disclosed wherein the said valve body is fixedly secured to the inner cylindrical surface of the pressure tube and a continuously open flow path extending through the valve body.

Ayyildiz et al. teaches, as shown in the figure, a valve body 7 fixedly secured to the inner cylindrical surface of the pressure tube and a continuously open flow path 8 extending through the valve body.

It would have been obvious to one of ordinary skill in the art to have fixedly secure the valve body to the inner cylindrical surface of the pressure tube of Reichert, as taught by Ayyildiz et al., in order to achieve the required damping.

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7. Claims 6, 7, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reichert in view of Ayyildiz et al. as applied to claim 1 above, and further in view of Furuya et al. (U.S. Patent Number 5,042,624).

Re-claims 6, 7, 29, and 30 Reichert as modified failed to disclose a compression valve assembly and an extension valve assembly attached to said piston and said flow path is tunable restriction.

Furuya et al. teaches, as shown in 1, a shock absorber comprising a compression valve assembly and an extension valve assembly attached to said piston 5 with tunable restriction flow path.

It would have been obvious to one of ordinary skill in the art to have modify the piston with a compression valve assembly and an extension valve assembly and tunable restriction flow path on the damper of Reichert as modified, as taught by Furuya et al., in order to achieve the required damping.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

H.P. Doetsch (U.S. Patent Number 3,444,830) disclosed an adjustable gas spring.

Sirven (U.S. Patent Number 4,407,396) disclosed a hydraulic shock absorber.

Bonenberger et al. (U.S. Patent Number 5,285,877) disclosed an impact damper.

Anderson (U.S. Patent Number 5,458,219) disclosed a pressurized shock absorber.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 703-308-3427.

The examiner can normally be reached on Mon.-Fri. from 9:00 A.M. to 3:00 P.M.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

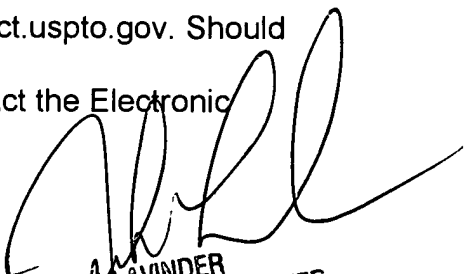
Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

 M. Sy

October 7, 2004


JACK LAVINDER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600